

January 24, 2025
20 ARDR

CRR 4296 of 2024

Dulal Mondal
Vs.
The State of West Bengal

Adv. Navanil De,
Adv. Subhrajit Dey,
Adv. Monami Mukherjee,

...for the petitioner.

Adv. Rituparna De Ghose,
Adv. Bikram Mitra,

...for the State.

Affidavit of service filed on behalf of the petitioner is taken on record.

Heard learned counsels for the parties.

By an order passed on 7th August, 2024 in CRR 1940 of 2024, this Court directed the learned trial Court to fix a date for the accused/petitioner to examine witness/witnesses with a further direction that such examination would be concluded within 30th August, 2024. The Inspector in charge, Tamluk Police Station was directed to produce relevant records before the learned trial Court on the first date of evidence fixed before the learned trial Court and in the event the records could not be produced, to submit a reasonable explanation for the same before the learned trial Court.

It appears that after this order was communicated to the learned trial Court on 20th August, 2024, the date of evidence was fixed before the learned trial Court on 23rd August, 2024.

On prayer of the petitioner, summons was issued upon the Doctor who examined Sikha Mondal in the emergency department of the District Hospital, Tamluk on 26th March, 2012. On 23rd August, 2024, no service return was received for which further summons was issued upon the witness/Doctor. On that date, S.I. Dibakar Dolai of Tamluk P.S. submitted a report before the learned trial Court stating that the

documents with regard to Tamluk P.S. U/D case no. 132 of 2012 dated 1st April, 2012 could not be traced out.

On the next date, i.e. on 27th August, 2024, the matter was adjourned since the witness did not appear. Again on 29th August, 2024 the matter had to be adjourned since the witness failed to appear despite service through the Superintendent, Tamluk Medical College and Hospital. By the order impugned, the learned trial Court closed the evidence of D.W. and fixed a date for argument on 6th September, 2024.

Since the witness did not appear before the learned trial Court despite notice, the learned trial Court ought to have taken necessary steps for securing his attendance on the adjourned date. However, the learned trial Court is directed to cause service of summons upon the witness through the Superintendent, Tamluk Medical College and Hospital as well as the concerned Police Station and fix a date for evidence of the witness. In the event the witness fails to turn up despite service of summons, necessary steps be taken by the learned trial Court to secure his attendance.

The Inspector in charge, Tamluk Police Station is further directed to produce the relevant U/D case records before the learned trial Court on the next date of hearing fixed before the learned trial Court. It is pertinent to mention that it has all throughout been stated by the Inspector in charge that the records are not traced. The Inspector in charge should either trace out the records and place the same before the learned trial Court on the adjourned date or submit a comprehensive report with regard to what steps have been taken by him for tracing out the records, Superintendent of Police, Purba Medinipur is requested to monitor such search and ensure that the

said records are produced before the learned trial Court on the next date of hearing.

The order impugned dated 30th August, 2024 is set aside/quashed.

CRR 4296 of 2024 is disposed of.

On prayer of the petitioner, liberty is granted to communicate gist of the order to the learned trial Court at the earliest.

Urgent certified website copy of this order, if applied for, be given to the parties, upon compliance with all requisite formalities.

(Suvra Ghosh, J.)